

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

NICHOLAS ROBERTO-LARA BAKER, #1427637,

Petitioner,

v.

ACTION NO. 2:15cv66

HAROLD W. CLARKE,  
Director of Virginia Department of Corrections,

Respondent.

**FINAL ORDER**

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violation of Petitioner's constitutional rights pertaining to his convictions in 2013 for possession of a firearm by a violent felon, possession of explosive material by a felon, and assault and battery of a family member, third offense, in Spotsylvania County, Virginia. As a result of the convictions, Petitioner was sentenced to serve a total of fifteen years in prison with seven (7) years suspended, leaving an active total time to serve of eight (8) years.

The petition was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Magistrate Judge's Report and Recommendation was filed on June 30, 2015, and recommends dismissal of the petition with prejudice. The Report and Recommendation advised Petitioner of his right to object and the time limit for doing so. The Court has received no objections, and the time for filing objections has now expired.

Accordingly, the Court accepts the findings and recommendations set forth in the Report and Recommendation filed June 30, 2015, and it is therefore ORDERED that Respondent's Motion to Dismiss be GRANTED, and that the petition be DENIED and DISMISSED with prejudice.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a *written* notice of appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date of entry of such judgment.

Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right, therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. *See Miller-El v. Cockrell*, 123 S. Ct. 1029, 1039 (2003).

The Clerk shall mail a copy of this Final Order to petitioner and provide an electronic copy of the Final order to counsel of record for Respondent.



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Arenda L. Wright Allen  
United States District Judge

Norfolk, Virginia

8. 14, 2015